

UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner:

Art Unit:

Docket No. 3040

In re:

Applicant: SKULTETY-BETZ, U., et al

Serial No.: 10/502,414

Filed:

REPLY BRIEF

September 24, 2009

Commissioner for Patents
P O Box 1450
Alexandria, VA 22313-1450

Sir:

This Reply Brief is responsive to the Examiner's Answer of July 27, 2009.

In addition to the arguments presented in the Brief on Appeal and previous Reply Brief, appellants would like to make the following comments.

Referring to the appellants' argumentation concerning Claim 11, the Examiner states on page 7 of his Answer that "Dunne does not teach the use of this system broken apart which would result in two separate housings, Dunne only teaches the two combined into a single housing thus reading on the claim."

The Examiner admits in this statement that the system shown in Dunne consist of two separate housings, namely one first housing for the distance measuring module and one second housing for the position sensor and the signal transducer for determining the orientation of the system.

The Examiner further states that Dunne only teaches the two modules combined, in the sense that they are fixedly connected to each other through the connection 16, see Figure 1. It should be noted that Dunne explicitly states that each of these modules may be operated as stand alone units as each has its own power supply and display, see the abstract on the cover page in Dunne.

Furthermore, the Examiner states that the system in Dunne "only works when the two pieces are connected as one and disconnecting them would result in this embodiment not functioning" (page 7).

Appellants cannot follow this argumentation: Since each module can be operated independently of the other module, a situation can be imagined in which the user holds the two separate modules such that they abut on each other in the position

shown in Figure 1, but with the position sensor module disengaged from the connection 16. If the user maintains the position sensor module against the distance measuring module and maintains manually the orientation of the position sensor module relative to the distance measuring module, the system can also provide information concerning the orientation of the distance measuring module.

Furthermore, the system would also work correctly if the user maintained the position sensor module at a small distance of the distance measuring module and maintained manually the orientation of the two modules. Thus, the fixed arrangement via the connection 16 is no condition for the system functioning correctly. The connection 16 provides only a higher comfort of use and a separation of the two modules does not hinder an operation of the system as a whole.

Considering the case where the two modules are maintained at small distance from each other, it is clear that this system consists of two separate housings.

Considering the case in which the modules abut on each other but in which they are loosely connected and maintained manually in contact, the question should be asked whether such a system has a single housing or two separated housings. According to the common sense, such a system has of course two separated housings which abut on each other. If not, this would mean that every couple of objects which are brought accidentally into contact would be considered as being made of one single housing.

The only difference between the situation shown in Figure 2 in Dunne and the above described situations is the fact that the two modules are fixedly connected to each other via the connection 16. This means that the question whether a system consists of one single housing or two housings would depend on the nature of the connection between the components of the system.

This situation is not satisfactory in view of the ambiguity which arises from the dependence of the term "housing" on the connection between the two objects, since this connection can be of different nature. In appellants' opinion, the interpretation of the term "housing" according to the Examiner is in contradiction with the common understanding of the term. As already brought forward in the Reply Brief of January 15, 2008, the common understanding of the term "housing" is confirmed by the Dunne reference: In the specification of the patent to Dunne, it is explicitly described that the laser module (12) has a housing (20) (column 5, line 7) and that the compass module (14) includes a housing (52) (column 6, lines 42-44). Considering the disclosure in Dunne, the person skilled in the art is clearly taught a system consisting of two housings, whereas Claim 11 requires a system having a single housing in which a laser, a position sensor and a signal transducer are arranged.

It is therefore respectfully submitted that the features of Claim 11 cannot be anticipated by the patent to Dunne and cannot be considered as obvious from its teaching.

Claim 11 should be considered as patentably distinguishing the present invention from the prior art and should be allowed.

Respectfully submitted,



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